IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9494 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JASHBHAI MOTIBHAI PATEL

Versus

REGIONAL PASSPORT OFFICER

Appearance:

MR RAJESH K SHAH for Petitioner

MR J.S.Yadav for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 28/09/2000

ORAL JUDGEMENT

Rule. Mr.J.S.Yadav learned Additional Standing Counsel for Central Govt. waives service of rule for respondents.

2. In this petition under Article 226 of the Constitution, the petitioner has prayed for a writ of mandamus directing the respondent-Regional Passport Officer to make correction of the petitioner's birth date in the passport from 29.4.1947 to 3.5.1947 as per the village record (at annexure "C" to the petition).

3. Earlier when the petitioner applied for passport the respondent authorities had issued him a passport relying on the School Leaving Certificate produced by the petitioner before the authorities. For getting visa for going to the USA the petitioner recently obtained birth certificate issued by the competent authority. According to village Form No.14 Entry No.25, the petitioner, son of Motibhai Shankerbhai was born on 3.5.47. The petitioner's elder brother Ambalal Motibhai Patel has filed affidavit dated 23.9.2000 (at annexure "E" to the petition) giving the particulars about all the three siblings including the petitioner from which it transpires that in the family of Motibhai Shankerbhai only the petitioner was born on 3.5.47. A copy of the birth certificate issued by Mamalatdar Borsad is produced at Annexure "C" to the petition.

4. When the petitioner approached the respondent authorities requesting for making necessary correction in the birth date of the petitioner in the passport, the respondent authorities did not consider the request on the ground as per the rules framed by the respondent No.2, they can not correct the birth date in the passport. Hence, petitioner has approached this Court.

5. Having heard the learned counsel for parties and having regard to the facts and circumstances of the case, the Regional Passport Officer, Ahmedabad is directed to consider the application of the petitioner for change of the petitioner's birth date in the passport from 29.4.1947 to 3.5.1947 on the basis of the material which may be produced, including the copy of birth certificate issued by the Mamalatdar, Borsad (at annexure "C" to the petition) and the affidavit of the petitioner's elder brother (at annexure "E" to the petition) as expeditiously as possible and preferably within one month from the date of receipt of writ of this Court or a certified copy of this order, whichever is earlier.

6. In case the petitioner is required to apply for a fresh passport the petitioner shall comply with the requisite formalities for the same.

7. The petition is accordingly allowed in the

aforesaid terms. Rule is made absolute to the aforesaid extent.

8. Since the respondents are not responsible for the mistake in question, the petitioner shall pay costs of this petition which are quantified at Rs.1,000/-in one set to respondent No.1 within two weeks from today. Direct service is permitted.

28.9.2000 (M.S.SHAH,J)